

104 CMR 25.00: AUTHORITY, MISSION, AND DEFINITIONS

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25.01: Regulatory Authority

The Department is authorized by M.G.L. c. 19, § 18 and M.G.L. c. 123, § 2, to adopt, amend and repeal regulations to carry out its responsibilities. 104 CMR is promulgated pursuant to this authority.

25.02: Authority and Mission

(1) Authority. The Department is the mental health authority in Massachusetts. It is mandated by M.G.L. c. 19 to take cognizance of all matters affecting the mental health of the citizens of the state. Pursuant to M.G.L. c. 19 and c. 123, it is authorized and required to:

- (a) develop and maintain a comprehensive program of community mental health services, including forensic mental health services;
- (b) operate, control and supervise, directly or by contract, all facilities and programs developed and maintained by the Department as part of the comprehensive program;
- (c) maintain state hospitals and other regional and statewide mental health facilities and services;
- (d) license or regulate private, county and municipal facilities and programs providing care and treatment to persons with mental illness.

(2) Mission. Pursuant to M.G.L. c. 19, § 1, the primary mission of the Department is to provide for services to citizens with long-term or serious mental illness, early and ongoing treatment for mental illness, and research into the causes of mental illness. The objective is to improve the quality of life for adults with serious and persistent mental illness, and for children with serious mental illness or severe emotional disturbance. This is accomplished by ensuring access to an integrated network of effective and efficient services that promotes patient and client rights, responsibilities, rehabilitation, recovery, equality, and self-determination.

(3) Interagency Agreements. The Commissioner may develop and enter into interagency agreements between the Department and other agencies or political subdivisions of the state, so long as the agreements further the mission of the Department, and are consistent with its authority.

25.03: Definitions

The following terms shall have the following meanings throughout 104 CMR, unless the context clearly provides otherwise or a different meaning is assigned within a particular chapter of the regulations. Definitions applicable only to a particular chapter are found within the chapter. The intent and meaning of all words, phrases and provisions of the regulations within 104 CMR shall be solely within the authority of the Department of Mental Health, unless otherwise required by law.

Adult shall mean any person who has attained the age of 18.

Area shall mean the geographic subdivision within the state that is responsible for providing access to comprehensive mental health services for individuals within its boundaries.

Area Director shall mean the individual with responsibility for the administration and operation of the Department's activities within an area.

Area Office shall mean the principal administrative office within each area.

Commissioner shall mean the Commissioner of the Department of Mental Health.

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Department shall mean the Department of Mental Health.

Department Facility shall mean a facility designated as a facility under the control of the Department pursuant to 104 CMR 26.03.

Facility shall mean a Department-operated hospital, community mental health center with inpatient unit, or psychiatric unit within a public health hospital; a Department-licensed psychiatric hospital; a Department-licensed psychiatric unit within a general hospital; or a secure intensive residential treatment program for adolescents that is either designated as a facility under the control of the Department or licensed by the Department.

Facility Director or Director of a Facility shall mean the superintendent or other head of a facility who is responsible for the admission, discharge, and treatment of patients in the facility, who may petition the district or juvenile court for commitment pursuant to M.G.L. c. 123; and who may take such other action as is authorized or required of the superintendent or other head of a facility pursuant to M.G.L. c. 123.

Incapable shall describe an individual who has not been adjudicated incompetent, but who is believed to be incapable of making informed decisions.

Legally Authorized Representative shall mean a guardian or other fiduciary granted applicable authority by a court of competent jurisdiction, or, in the case of a minor, the parent(s) or other individual or entity with legal custody of the minor.

Minor shall mean any person under the age of 18.

Patient shall mean a person who is receiving care and treatment in a facility, including a resident of an intensive residential treatment program.

Program or Mental Health Program shall mean community-based mental health programs or services licensed, contracted for, or operated by the Department.

Program Director shall mean the person with day-to-day responsibility for the mental health program.

25.04: Emancipated and Mature Minors

Throughout 104 CMR, there are instances where the rights of emancipated or mature minors may be relevant. The regulations do not attempt to identify them. However, where, by operation of law pursuant to M.G.L. c. 112, §§ 12E or 12F, a minor is an emancipated minor entitled to consent to drug or medical or dental treatment and is competent to do so, he or she shall be entitled to consent in the same manner as an adult. Further, a facility or program may determine, pursuant to applicable Massachusetts law, that a minor is a mature minor and is therefore able to provide consent to treatment and may decide, in certain circumstances, not to notify the parents. Such determinations should be made by facilities and programs in consultation with their legal counsel.

REGULATORY AUTHORITY

104 CMR 25.00: M.G.L. c. 19, § 1 and 18; c. 123, § 2.